



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO, CALIFORNIA 95814-2922

December 27, 2004

Regulatory Branch (199500363)

John D. Webb
North Region Office of Environmental Services
2389 Gateway Oaks Drive, Suite 100
Sacramento, California 95833

Dear Mr. Webb:

I am writing in response to your request for our concurrence on the conceptual mitigation plan for the State Route (SR) 65 Lincoln Bypass Project in Placer County, California.

Based on our expedited review of the draft Mitigation and Monitoring Proposal (MMP) that we received on December 1, 2004, we concur with the conceptual mitigation plan for this project. This concurrence is limited to the concepts as they are presented in the November 2004, "Mitigation and Monitoring Proposal, Route 65 Lincoln Bypass, Placer County, California". This concurrence does not extend to any potential changes to mitigation locations, acreages, or configurations. This concurrence does not constitute approval of the MMP as final.

While we concur in concept with the overall mitigation approach, sites and ratios in the draft MMP, we have major concerns regarding some its details. These include attempts to inappropriately segment mitigation by agency or authority rather than simply develop a mitigation plan that provides adequate mitigation for project impacts, ill defined and potentially incompatible development within mitigation areas, failure to select appropriate reference wetlands, and failure to develop appropriate success criteria.

The purpose for distinguishing portions of proposed vernal pool mitigation for "Section 404 purposes" from mitigation for "Vernal pool fairy shrimp/tadpole shrimp" is unclear. As any permit that might be issued for the proposed project would mandate the construction of a specific acreage of vernal pools and the preservation of a specific acreage of vernal pools, vernal pool mitigation should be consolidated as a single proposed number for creation and a single proposed number for preservation. It would then be appropriate to indicate that these acreages are proposed to meet requirements of the Clean Water Act (CWA) and the Endangered Species Act (ESA).

The draft MMP indicates that a grazing plan will be developed for the Aiken Ranch site. This grazing plan would need the approval from the Corps of Engineers, and potentially other agencies, prior to its implementation and should be included with the final mitigation plan or as a component of the long term management plan, which would be required in the event that a permit is issued for the proposed project. Additionally, the draft plan indicates that a future county trail "will" cross the property. Absent an indication of the trails location and design, we cannot conclude that this trail will not adversely affect the ability of this site to mitigate for proposed project impacts.

As has been indicated to Caltrans separately, additional justification for mitigation design, selection of reference wetlands, and development of appropriate performance standards will be necessary before we would be able to provide approval of the final MMP.

Please refer to identification number 199500363 in any correspondence concerning this project. If you have any questions, please contact Tom Cavanaugh at our Sacramento Valley Office, 1325 J Street, Room 1480, Sacramento, California 95814-2922, email *Thomas.J.Cavanaugh@usace.army.mil*, or telephone 916-557-5261. You may also use our website: *www.spk.usace.army.mil/regulatory.html*.

Sincerely,



Thomas J. Cavanaugh
Chief, Sacramento Valley Office

Copies Furnished:

Ken Sanchez, US Fish and Wildlife Service, Endangered Species Office, 2800 Cottage Way, Room W-2605, Sacramento, California 95825-1846

Lisa Hanf, US Environmental Protection Agency, Federal Activities Office, 75 Hawthorne Street, San Francisco, California 94105-3901